

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

## Plaintiff.

V.

## JOHN DELBERT LLOYD,

**Defendant.**

NO: 2:13-CR-2086-TOR-1

**ORDER DENYING MOTION TO  
VACATE, SET ASIDE OR CORRECT  
SENTENCE PURSUANT TO 18  
U.S.C. § 2255**

BEFORE THE COURT are Defendant's Motion to Vacate, Set Aside, or

13 | Correct Sentence Pursuant to 18 U.S.C. § 2255 (ECF No. 148) and the United

14 | States' Motion to Vacate Hearing and Hold Petitioner's Motion in Abeyance (ECF

15 | No. 150). The Court—having reviewed the motions, the record, and files

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16 | therein—is fully informed.

17 || Defendant seeks reschedule

Defendant seeks resentencing based on the reasoning of *Johnson v. United*

<sup>18</sup> *States*, 135 S. Ct. 2551 (2015), contending that his sentence was based on an

<sup>19</sup> unconstitutional definition of the term “crime of violence” used in the United

<sup>20</sup> States Sentencing Guidelines. He argues that the definition set forth in U.S.S.G.

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OR CORRECT SENTENCE PURSUANT TO 18 U.S.C. § 2255 ~ 1**

1   § 4B1.2(a)(2) (repealed Aug. 2016) is void for vagueness, because *Johnson* held  
2   the identically worded residual clause in the Armed Career Criminal Act of 1984,  
3   18 U.S.C. § 924(e)(2)(B)(ii), was void as well. The Supreme Court of the United  
4   States has now ruled otherwise. *Beckles v. United States*, \_\_\_U.S.\_\_\_, 2017 WL  
5   855781 (2017) (“the advisory Guidelines are not subject to vagueness challenges  
6   under the Due Process Clause”).

7           **ACCORDINGLY, IT IS ORDERED:**

8       1. Defendant’s Motion to Vacate, Set Aside, or Correct Sentence Pursuant  
9           to 18 U.S.C. § 2255 (ECF No. 148) is **DENIED**.  
10      2. The United States’ Motion to Vacate Hearing and Hold Petitioner’s  
11           Motion in Abeyance (ECF No. 150) is **DENIED** as moot.

12           The District Court Executive is directed to enter this Order, provide copies  
13           to the parties, and close the corresponding civil file.

14           **DATED** March 9, 2017.



15           A handwritten signature in blue ink that reads "Thomas O. Rice".  
16           THOMAS O. RICE  
17           Chief United States District Judge  
18  
19  
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OR CORRECT SENTENCE PURSUANT TO 18 U.S.C. § 2255 ~ 2